

HISTORY OF INTELLIGENCE AND INVESTIGATIVE INFORMATION IN MAINE'S CRIMINAL HISTORY RECORD INFORMATION ACT

1. Prior to 1979, Maine's CHRIA did not address intelligence and investigative information [see Maine's first CHRIA (P.L. 1975, ch. 763)]. It was excluded from the definition of "criminal history record information." See 28 C.F.R., Part 20; see also 1977 pamphlet entitled "Privacy and Security of Criminal History Information: A Guide to Dissemination" prepared by the Privacy and Security Staff of the National Criminal Justice Information and Statistics Service, Law Enforcement Assistance Administration at pages 6-7.
2. In 1979 Maine passed the replacement for P.L. 1975, ch. 763 – namely, P.L. 1979, ch. 433, effective September 14, 1979. [See P.L. 1979, ch. 433 attached]. That Act:
 - A. defined "intelligence and investigative information" in section 611(8). The definition addressed "intelligence and investigative information" only in the context of criminal activity. It provided:

8. Intelligence and investigative information. "Intelligence and investigative information" means information collected by criminal justice agencies in an effort to anticipate, prevent or monitor possible criminal activity, or compiled in the course of investigation of known or suspected crimes. It does not include information that is criminal history record information.
 - B. added section 614. Note that section 614 was made applicable to "a local, county or district criminal justice agency," limited dissemination, and included exceptions as follows:

§ 614. Limitation on dissemination of intelligence and investigative information

1. Limitation on dissemination of intelligence and investigative information. Reports or records in custody of a local, county or district criminal justice agency containing intelligence and investigative information shall be confidential and shall not be

disseminated, if public release or inspection of the report or record may:

- A. Interfere with law enforcement proceedings;
 - B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
 - C. Result in public dissemination of information about the private life of an individual in which there is no legitimate public interest and which would be offensive to a reasonable person;
 - D. Disclose the identity of a confidential source;
 - E. Disclose confidential information furnished only by the confidential source;
 - F. Disclose investigative techniques and procedures not generally known by the general public; or
 - G. Endanger the life or physical safety of law enforcement personnel.
2. Exception to this limitation. Nothing in this section shall preclude dissemination of intelligence and investigative information to another criminal justice agency. Intelligence and investigative information may also be disseminated to an accused person or his attorney, if authorized by:
- A. The District Attorney for the district in which that accused person is to be tried;
 - B. A rule or ruling of a court of this State or of the United States; or
 - C. the Attorney General.
3. Effective September 18, 1981, P.L. 1981, ch. 64 added "or in the custody of the criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife" to which section 614(1) applied.
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4. Effective April 18, 1984, P.L. 1983, ch. 787 added to then section 614(1)(F) "security plans and procedures" and included "operation plans of the collecting agency or another agency" in the definition of "intelligence and investigative information" in section 611(8).
5. Effective March 3, 1986, P.L. 1985, ch. 552 added "in the custody of the Office of the State Fire Marshal" to which section 614(1) applied.

6. Effective March 25, 1992, P.L. 1991, ch. 729 added “in the custody of the Department of Corrections” to which 614(1) applied and changed the standard limiting dissemination as follows: “are confidential and may not be disseminated, if there is a reasonable possibility that public release or inspection of the report or record would:”(emphasis supplied) [paragraphs A-G remained unchanged].
7. Effective April 8, 1992, P.L. 1991, ch. 837, § B-5 added “or in the custody of the Maine Drug Enforcement Agency” to which section 614(1) applied.
8. Effective October 13, 1993, P.L. 1993, ch. 376, § 1 repealed and reenacted section 614(1) because of a conflict between P.L. 1991, chapters 729 and 837. Further, it added “in the custody of the Bureau of State Police” to which section 614(1) applied.
- *9. Effective July 14, 1994, P.L. 1993, ch. 719, “An Act to Bring the Department of the Attorney General into Conformity with the Criminal History Record Information Laws,” made the following significant changes:

First, it added “the Department of the Attorney General” in its entirety to the definition of a “criminal justice agency” in section 611(4).

Second, it amended the definition of “intelligence and investigative information” in section 611(8) to read:

8. Intelligence and investigative information. “Intelligence and investigative information” means information collected by criminal justice agencies or at the direction of criminal justice agencies in an effort to anticipate, prevent or monitor possible criminal activity, including operation plans of the collecting agency or another agency, or information compiled in the court of investigation of known or suspected crimes, civil violations and prospective and pending civil actions. It “Intelligence and investigative information” does not include information that is criminal history record information.

Third, it repealed and replaced section 614(1). New section 614(1) included “the Department of Attorney General” to which section 614(1)

applied, added paragraphs F, I, J and K, and modified both former paragraphs C and G (now paragraphs C and H) to read:

C. ~~Result in public dissemination of information about the private life of an individual in which there is no legitimate public interest and which would be offensive to a reasonable person~~ Constitute an unwarranted invasion of personal privacy.

...

H. Endanger the life or physical safety of any individual, including law enforcement personnel.

Fourth, it repealed 5 M.R.S.A. § 200-D (enacted by P.L.1975, ch. 715, effective April 1, 1976) that had read:

§ 200-D. Complaints and investigative records confidential

Notwithstanding any other provision of law, all complaints and investigative records of the Department of the Attorney General shall be and are declared to be confidential.

However, it made the repeal of section 200-D applicable only to reports and records that were created after July 1, 1995. Section 11 of chapter 719 provided:

Sec. 11. Effect of repeal of Maine Revised Statutes, Title 5, section 200-D. Reports and records that were created prior to the effective date of this Act that were confidential pursuant to the Maine Revised Statutes, Title 5, section 200-D at the time of their creation continue to be confidential after the effective date of this Act as provided in former Title 5, section 200-D. The confidentiality of intelligence and investigative information contained in reports and records prepared by or at the direction of the Department of the Attorney General after the effective date of this Act is governed by Title 16, section 614.

[See P.L. 1979, ch. 433 attached]

10. Effective September 29, 1995, P.L. 1995, ch. 135 added “or the Department of Conservation, Forest Fire Central Division when the reports and records pertain to arson” to which section 614(1) applied.

11. Effective September 19, 1997, P.L. 1997, ch. 456(10) added to section 614 current subsection 1-A that reads:

Sec. 10 16 MRSA § 614, sub-§ 1-A is enacted to read:

1-A. Limitation on release of identifying information; cruelty to animals. The names of and other identifying information on persons providing information pertaining to criminal or civil cruelty to animals to the Department of Agriculture, Food and Rural Resources is confidential information and may not be disseminated.

12. Effective September 18, 1999, P.L. 1999, ch. 155, § A-5 changed “Forest Fire Central Division” to read “Division of Forest Protection” in section 614(1).
13. Effective September 18, 1999, P.L. 1999, ch. 305, § 1 amended section 614(2) to read:

2. Exception to this limitation. Nothing in this section ~~shall preclude~~ precludes dissemination of intelligence and investigative information to another criminal justice agency or, for use in the investigation of suspected abuse or neglect, to the Department of Human Services, Bureau of Child and Family Services. Intelligence and investigative information may also be disseminated to an accused person or ~~his~~ that person's attorney, if authorized by:

- A. The District Attorney for the district in which that accused person is to be tried;
- B. A rule or ruling of a court of this State or of the United States; or
- C. The Attorney General.

14. Effective July 25, 2002, P.L. 2001, ch. 532, sub-§§ 1, 2 repealed section 614(2) and enacted in its stead section 614(3). Subsection 3 read:

3. Exceptions. Nothing in this section precludes dissemination of intelligence and investigative information to:

- A. Another criminal justice agency;

B. A state agency responsible for investigating abuse, neglect or exploitation of children under Title 22, chapter 1071 or incapacitated or dependent adults under Title 22, chapter 958-A for use in the investigation of suspected abuse, neglect or exploitation; or

C. An accused person or that person's agent or attorney if authorized by:

(1) The district attorney for the district in which that accused person is to be tried;

(2) a rule or ruling of a court of this State or of the United States; or

(3) The Attorney General.

15. Effective September 13, 2003, P.L. 2003, ch. 402 added current section 614(3)(D). Paragraph D provides:

D. A victim or victim's agent or attorney, subject to reasonable limitations to protect the interest described in subsection 1.

16. Effective September 12, 2009, P.L. 2009, ch. 182 added current 614(3)(E) and section 614(4). Paragraph E and subsection 4 read as follows:

E. An advocate, as defined in section 58-B, subsection 1, paragraph A, with a specific agreement with a criminal justice agency and subject to reasonable limitations to protect the interests described in subsection 1. An agreement between an advocate and a criminal justice agency must, at a minimum, include provisions that:

(1) Permit the advocate to use reports or records that contain intelligence and investigative information for the purpose of planning for the safety of the victim named in the reports;

(2) Prohibit the advocate from further disseminating reports or records that contain intelligence and investigative information;

(3) Require the advocate to ensure that reports and records that contain intelligence and investigative information remain secure and confidential;

(4) Require the advocate to destroy reports or records that contain intelligence and investigative information within 30 days after receiving the report or record;

(5) Permit the criminal justice agency to perform reasonable and appropriate audits in order to ensure that records containing

intelligence and investigative information that are obtained by and that are in the custody of the advocate are maintained in accordance with the requirements of this paragraph;

(6) Require the advocate to indemnify and hold harmless the criminal justice agency with respect to any litigation that may result from the provision of reports or records that contain intelligence and investigative information;

(7) Permit the criminal justice agency to immediately and unilaterally revoke an agreement made pursuant to this paragraph; and

(8) Provide sanctions for any violations of this paragraph.

The Commissioner of Public Safety may adopt a model policy to standardize the provisions contemplated in this paragraph.

....

4. Unlawful dissemination of reports and records that contain intelligence and investigative information. A person that intentionally disseminates a report or record that contains intelligence and investigative information in violation of this section commits a Class E crime.

17. Effective April 25, 2011 (emergency), P.L. 2011, ch. 52 added 614(3)(B-1). Paragraph B-1 reads as follows:

B-1. The division of licensing and regulatory services within the Department of Health and Human Services for use in the investigation of suspected abuse, neglect or exploitation in licensed, certified and registered facilities and programs that provide care to children and adults;

18. Effective September 28, 2011, P.L. 2011, ch. 210 added “or the Department of Agriculture, Food and Rural Resources when the reports or records pertain to animal cruelty” to which section 614(1) applied.

19. Effective June 15, 2011, (emergency), P.L. 2011, ch. 356 added “or the Department of the Secretary of State, Bureau of Motor Vehicles, Office of Investigations” to which section 614(1) applied.

R.L. 1979, ch. 433, effective September 14, 1979

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CHAP. 433

PUBLIC LAWS, 1979

CHAPTER 433

H. P. 1425 — L. D. 1632

AN ACT to Amend the Laws Relating to Criminal History Record Information.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 16 MRSA c. 3, sub-c. VII, as amended, is repealed.

Sec. 2. 16 MRSA c. 3, sub-c. VIII is enacted to read:

SUBCHAPTER VIII

CRIMINAL HISTORY RECORD INFORMATION ACT

§ 611. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Administration of criminal justice. "Administration of criminal justice" means detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

2. Conviction data. "Conviction data" means criminal history record information other than nonconviction data.

3. Criminal history record information. "Criminal history record information" means notations or other written evidence of an arrest, detention, complaint, indictment, information or other formal criminal charge relating to an identifiable person. It shall include the identification or description of the person charged and any disposition of the charge. The term does not include identification information such as fingerprints, palm prints or photographic records to the extent that the information does not indicate involvement of the individual in the criminal justice system. The term does not include records of civil violations.

4. Criminal justice agency. "Criminal justice agency" means a federal, state, district, county or local government agency or any subunit thereof which performs the administration of criminal justice under a statute or executive order, and which allocates a substantial part of its annual budget to the administration of criminal justice. Courts shall be deemed to be criminal justice agencies.

5. Disposition. "Disposition" means the conclusion of criminal proceedings, and includes acquittal, acquittal by reason of mental disease or defect, filing of case, dismissal of charge, dismissal of charge due to mental incompetency, continuance due to mental incompetence, guilty plea, nolo contendere plea, nolle prosequi, conviction, sentence, death of defendant, mistrial, new trial granted, release from correctional supervision, parole, pardon, amnesty or extradition. If the disposition is that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings, it shall include the nature of the termination or conclusion of the proceedings. If the disposition is that the proceedings have been indefinitely postponed, it shall include the reason for that postponement.

6. Dissemination. "Dissemination" means the transmission of information, whether orally, in writing or by electronic means by or to anyone outside the agency which maintains the information.

7. Executive order. "Executive order" means an order of the President of the United States or the chief executive of a state which has the force of law and which is published in a manner permitting regular public access thereto.

8. Intelligence and investigative information. "Intelligence and investigative information" means information collected by criminal justice agencies in an effort to anticipate, prevent or monitor possible criminal activity, or compiled in the course of investigation of known or suspected crimes. It does not include information that is criminal history record information.

9. Nonconviction data. "Nonconviction data" means criminal history record information of the following types:

A. Arrest information without disposition, if an interval of one year has elapsed from the date of the arrest and no active prosecution of the charge is pending. To be an active prosecution the case must be still actively in process, with arraignment completed and the case docketed for court trial;

B. Information disclosing that the police have elected not to refer a matter to a prosecutor;

C. Information disclosing that a prosecutor has elected not to commence criminal proceedings;

D. Information disclosing that criminal proceedings have been indefinitely postponed, e.g. a "filed" case, or a case which cannot be tried because the defendant is found to be mentally incompetent to stand trial;

E. A dismissal;

F. An acquittal, excepting an acquittal by reason of mental disease or defect; and

G. Information disclosing that a person has been granted a full and free pardon or amnesty.

10. Person. "Person" means an individual, government agency or a corporation, partnership or unincorporated association.

11. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.

12. Statute. "Statute" means an Act of Congress or of a state legislature or a provision of the Constitution of the United States or of a state.

§ 612. Application

1. Criminal justice agencies. This subchapter shall apply only to criminal justice agencies.

2. Exceptions. This subchapter shall not apply to criminal history record information contained in:

A. Posters, announcements or lists for identifying or apprehending fugitives or wanted persons;

B. Original records of entry, such as police blotters, that are maintained by criminal justice agencies and that are compiled and organized chronologically;

C. Records, retained at and by the District Court and Superior Court, of public judicial proceedings, including, but not limited to, docket entries and original court files;

D. Court or administrative opinions not impounded or otherwise declared confidential;

E. Records of public administrative or legislative proceedings;

F. Records of traffic offenses retained at and by the Secretary of State; and

G. Petitions for and warrants of pardons, commutations, reprieves and amnesties.

3. Permissible disclosure. Nothing in this subchapter shall be construed to prohibit a criminal justice agency from:

A. Disclosing to the public criminal history record information related to an offense for which a person is currently within the criminal justice system;

B. Confirming prior criminal history record information to the public, in

response to a specific inquiry that includes a specific name, date and charge or disposition, provided that the information disclosed is based upon data excluded by subsection 2. The disclosing criminal justice agency shall disclose therewith any and all criminal history record information in its possession which indicates the disposition of the arrest, detention or formal charges; and

C. Disseminating criminal history record information for purposes of international travel such as issuing visas and granting of citizenship.

§ 613. Limitations on dissemination of nonconviction data

Except as provided in section 612, subsections 2 and 3, dissemination of nonconviction data by a criminal justice agency, whether directly or through any intermediary, shall be limited to:

1. Criminal justice agencies. Other criminal justice agencies for the purpose of the administration of criminal justice and criminal justice agency employment;

2. Under express authorization. Any person for any purpose when expressly authorized by statute, executive order, court rule, court decision or court order. Express authorization shall mean language in the statute, executive order, or court rule, decision or order which specifically speaks of nonconviction data or specifically refers to one or more of the types of nonconviction data;

3. Under specific agreements. Any person with a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice or to conduct investigations determining the employment suitability of prospective law enforcement officers. The agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, insure security and confidentiality of the data consistent with this subchapter and provide sanctions for any violations; and

4. Research activities. Any person for the express purpose of research, evaluation or statistical purposes or under an agreement with the criminal justice agency. The agreement shall specifically authorize access to data, limit the use of data to research, evaluation or statistical purposes, insure the confidentiality and security of the data consistent with this subchapter and provide sanctions for any violations.

§ 614. Limitation on dissemination of intelligence and investigative information

1. Limitation on dissemination of intelligence and investigative information. Reports or records in the custody of a local, county or district criminal justice agency containing intelligence and investigative information shall be confidential and shall not be disseminated, if public release or inspection of the report or record may:

A. Interfere with law enforcement proceedings;

B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;

C. Result in public dissemination of information about the private life of an individual in which there is no legitimate public interest and which would be offensive to a reasonable person;

D. Disclose the identity of a confidential source;

E. Disclose confidential information furnished only by the confidential source;

F. Disclose investigative techniques and procedures not generally known by the general public; or

G. Endanger the life or physical safety of law enforcement personnel.

2. Exception to this limitation. Nothing in this section shall preclude dissemination of intelligence and investigative information to another criminal justice agency. Intelligence and investigative information may also be disseminated to an accused person or his attorney, if authorized by:

A. The District Attorney for the district in which that accused person is to be tried;

B. A rule or ruling of a court of this State or of the United States; or

C. The Attorney General.

§ 615. Dissemination of conviction data

Conviction data may be disseminated to any person for any purpose.

§ 616. Inquiries required

A criminal justice agency shall query the State Bureau of Identification prior to dissemination of any criminal history record information for noncriminal justice purposes to assure that the most up-to-date disposition data is being used.

§ 617. Dissemination to noncriminal justice agencies

Criminal history record information disseminated to a noncriminal justice agency under section 613 shall be used solely for the purpose of which it was disseminated and shall not be disseminated further.

§ 618. Confirming existence or nonexistence of criminal history record information

Except as provided in section 612, subsection 3, paragraph B, no criminal justice agency shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself.

§. 619. Unlawful dissemination

1. Offense. A person is guilty of unlawful dissemination if he knowingly disseminates criminal history information in violation of any of the provisions of this subchapter.

2. Classification. Unlawful dissemination is a Class E crime.

§. 620. Right to access and review

1. Inspection. Any person or his attorney may inspect the criminal history record information concerning him maintained by a criminal justice agency. A person's right to inspect or review criminal history record information shall not include access to intelligence and investigative information or any other information which is not criminal history record information. A criminal justice agency may prescribe reasonable hours and locations at which the right may be exercised and any additional restrictions, including satisfactory verification of identity by fingerprint comparison, as are reasonably necessary. These restrictions shall be to insure the security and confidentiality of the criminal history record information and to verify the identity of the person seeking to inspect that information. The agency shall supply the person or his attorney with a copy of the criminal history record information pertaining to him on request and payment of a reasonable fee.

2. Review. A person or his attorney may request amendment or correction of criminal justice record information concerning him by addressing, either in person or by mail, his request to the criminal justice agency in which the information is maintained. The request shall indicate the particular record involved, the nature of the correction sought and the justification for the amendment or correction.

On receipt of a request, the criminal justice agency shall take necessary steps to determine whether the questioned information is accurate and complete. If investigation reveals that the questioned information is inaccurate or incomplete, the agency shall immediately correct the error or deficiency and advise the requesting person that the correction or amendment has been made.

Not later than 15 days, excluding Saturdays, Sundays and legal public holidays, after the receipt of a request, the agency shall notify the requesting person in writing either that the agency has corrected the error or deficiency or that it refuses to make the requested amendment or correction. The notice of refusal shall include the reasons therefor, the procedure established by the agency for requesting a review by the head of the agency of that refusal and the name and

business address of that official.

3. Administrative appeal. If there is a request for review, the head of the agency shall, not later than 30 days from the date of the request, excluding Saturdays, Sundays and legal public holidays, complete the review and either make the requested amendment or correction or refuse to do so. If the head of the agency refuses to make the requested amendment or correction, he shall permit the requesting person to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal. He shall also notify the person of the provisions for judicial review of the reviewing official's determination under subsection 4.

Dissemination of the disputed criminal history record information by that agency with which the requesting person has filed a statement of disagreement, occurring after the filing of such statement, shall clearly reflect notice of the dispute. A copy of the statement shall be included, along with, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendment or correction requested.

4. Judicial review. If an administrative appeal brought pursuant to subsection 3 is denied by the head of the agency, or the requesting person believes the decision of the head of the agency to be otherwise unsatisfactory, the person may, within 30 days of the decision rendered by the head of the agency, seek relief in the Superior Court.

5. Notification. When a criminal justice agency has amended or corrected a person's criminal history record information in response to written request as provided in subsection 2 or a court order, the agency shall, within 30 days thereof, advise all prior recipients, who have received that information within the year prior to the amendment or correction, of the amendment or correction. It shall also notify the person of compliance with that requirement and the prior recipients notified.

6. Right of release. The provisions of this subchapter shall not limit the right of a person to disseminate to any other person criminal history record information pertaining to himself.

§ 621. Information and records of the Attorney General, State Police and Bureau of Identification

Nothing in this subchapter shall require dissemination of information or records of the Attorney General, State Police or Bureau of Identification that are declared to be confidential under Title 5, section 200-D or Title 25, section 1631.

§ 622. Application

The provisions of this subchapter shall apply to criminal history record information in existence before July 29, 1976, including that which has been

previously expunged under any other provision of Maine law, as well as to criminal history record information in existence on July 29, 1976 and thereafter.

Effective September 14, 1979

CHAPTER 434

H. P. 1050 — L. D. 1301

AN ACT to Clarify the Requirements Relating to Campaign Reports and Finances.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 21 MRSA § 1396, sub-§ 2, ¶ B, as repealed and replaced by PL 1975, c. 759, § 1, is amended to read:

B. The identification of every person making a contribution in excess of \$10, and the date and amount thereof and, if a person's contributions in any election report filing period aggregate more than \$50, the account shall include occupation and the principal place of business, if any, and, if such person is a member of a candidate's immediate family as defined in section 1395, subsection 1, the account shall state such relationship. For purposes of this paragraph, "filing period" is as provided in section 1397, subsection 4, paragraph A;

Sec. 2. 21 MRSA § 1397, sub-§ 4, ¶ A, last sentence, as enacted by PL 1977, c. 575, § 13, is repealed and the following enacted in its place:

Other reports shall be complete for the filing period. A filing period is that period of time from one completion date to the next completion date except as provided heretofore for first reports.

Sec. 3. 21 MRSA § 1397, sub-§ 4, ¶ C, as enacted by PL 1977, c. 575, § 13, is repealed and the following enacted in its place:

C. Reports shall be filed not later than 5 p.m. on the 42nd day after the date on which an election is held and shall be complete for the filing period.

Sec. 4. 21 MRSA § 1397, sub-§ 6, as last repealed and replaced by PL 1977, c. 575, § 13, is amended to read:

6. Content. A report required under this section shall contain the itemized

P.L. 1993, ch. 719, effective July 14, 1994

(1) The name of any domestic corporation or limited partnership or limited liability company organized under the laws of this State or any foreign corporation or foreign limited partnership or foreign limited liability company authorized to transact business or to carry on activities in this State;

(2) A name the exclusive right to which is, at the time, reserved under section 404 or 604; Title 13-A, section 302; or Title 13-B, section 302;

(3) A name that is registered under section 406 or 606; Title 13-A, section 303; or Title 13-B, section 303;

(4) The assumed name of a corporation or limited partnership or limited liability company as provided in section 405 or 605; Title 13-A, section 307; or Title 13-B, section 308; or

(5) A mark registered under Title 10, chapter 301-A.

Sec. B-10. 36 MRSA §4641-C, sub-§15, as enacted by PL 1993, c. 398, §4, is amended to read:

C. From a trustee, nominee or straw party to the beneficial owner; and

Sec. B-11. 36 MRSA §4641-C, sub-§16, as enacted by PL 1993, c. 398, §4, is amended to read:

16. Certain corporate, partnership and limited liability company deeds. Deeds between a family corporation, partnership or, limited partnership or limited liability company and its stockholders or, partners or members for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership or, limited partnership or limited liability company under the laws of this State, provided that if the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership or, limited partnership or limited liability company. For purposes of this subsection a family corporation, partnership or, limited partnership or limited liability company is a corporation, partnership or, limited partnership or limited liability company in which the majority of the voting stock of the corporation, or of the interests in the partnership or, limited partnership or limited liability company is held by and the majority of the stockholders or, partners or members are persons related to each other, including by adoption, descendants or as spouses of descendants of a common ancestor who was also a transferor of the

real property involved, or persons acting in a fiduciary capacity for persons so related; and

Sec. B-12. 36 MRSA §4641-C, sub-§17 is enacted to read:

17. Limited liability company deeds. Deeds to a limited liability company from a corporation, a general or limited partnership or another limited liability company, when the grantor or grantee owns an interest in the limited liability company in the same proportion as the grantor's or grantee's interest in or ownership of the real estate being conveyed.

Sec. B-13. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1994-95

**SECRETARY OF STATE,
DEPARTMENT OF THE**

**Bureau of Administrative
Services and Corporations**

All Other	\$7,500
Provides funds for ongoing printing, postage and one-time software design costs to implement the establishment of limited liability corporations.	

See title page for effective date.

CHAPTER 719

S.P. 665 - L.D. 903

**An Act to Bring the Department of
the Attorney General into Conformity
with the Criminal History Record
Information Laws**

**Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 5 MRSA §200-D, as enacted by PL 1975, c. 715, §1, is repealed.

Sec. 2. 10 MRSA §1109, sub-§4, as enacted by PL 1989, c. 750, is amended to read:

4. Confidentiality. Information received by the Department of the Attorney General as a result of this

reporting requirement is a confidential investigative record under Title 5, section 200-D.

Sec. 3. 10 MRSA §1675, as enacted by PL 1991, c. 836, §3, is amended to read:

1675. Confidentiality

Information received by the Department of the Attorney General pursuant to sections 1673 and 1674 constitutes a confidential investigative record under Title 5, section 200-D.

Sec. 4. 10 MRSA §8003-B, sub-§3, as enacted by PL 1989, c. 173, is amended to read:

3. **Attorney General records.** The provision for disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality, provided under Title 5, section 200-D, of those records for any other purposes. Further disclosure of those investigative records shall be subject to Title 16, section 614 and the discretion of the Attorney General.

Sec. 5. 16 MRSA §611, sub-§4, as enacted by PL 1979, c. 433, §2, is amended to read:

4. **Criminal justice agency.** "Criminal justice agency" means a federal, state, district, county or local government agency or any subunit thereof which performs the administration of criminal justice under a statute or executive order, and which that allocates a substantial part of its annual budget to the administration of criminal justice. Courts shall be deemed to be and the Department of the Attorney General are considered criminal justice agencies.

Sec. 6. 16 MRSA §611, sub-§8, as amended by PL 1983, c. 787, §1, is further amended to read:

8. **Intelligence and investigative information.** "Intelligence and investigative information" means information collected by criminal justice agencies or at the direction of criminal justice agencies in an effort to anticipate, prevent or monitor possible criminal activity, including operation plans of the collecting agency or another agency, or information compiled in the course of investigation of known or suspected crimes, civil violations and prospective and pending civil actions. It "Intelligence and investigative information" does not include information that is criminal history record information.

Sec. 7. 16 MRSA §614, sub-§1, as repealed and replaced by PL 1993, c. 376, §1, is repealed and the following enacted in its place:

1. Limitation on dissemination of intelligence and investigative information. Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire Marshal; the Department of Corrections; or the criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

- A. Interfere with law enforcement proceedings;
- B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
- C. Constitute an unwarranted invasion of personal privacy;
- D. Disclose the identity of a confidential source;
- E. Disclose confidential information furnished only by the confidential source;
- F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General;
- G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public;
- H. Endanger the life or physical safety of any individual, including law enforcement personnel;
- I. Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General;
- J. Disclose information designated confidential by some other statute; or
- K. Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws.

Sec. 8. 16 MRSA §621, as amended by PL 1993, c. 376, §2, is repealed.

Sec. 9. 16 MRSA §623 is enacted to read:

§623. Attorney General fees

The Attorney General shall analyze the impact of this conformity provision upon the Department of the Attorney General. The Department of the Attorney General shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters to the First Regular Session of the 117th Legislature on this analysis and recommend a funding mechanism. The funding mechanism must include a fee for services to cover the costs associated with providing access and copying of records available to the public under this chapter.

Sec. 10. 22 MRSA §1885, sub-§1, as enacted by PL 1991, c. 814, §1, is amended to read:

1. **Investigative powers.** The Attorney General, at any time after an application is filed under section 1883, subsection 2, may require by subpoena the attendance and testimony of witnesses and the production of documents in Kennebec County or the county in which the applicants are located for the purpose of investigating whether the cooperative agreement satisfies the standards set forth in section 1883, subsection 4. All documents produced and testimony given to the Attorney General are investigative records under Title 5, section 200-D confidential. The Attorney General may seek an order from the Superior Court compelling compliance with a subpoena issued under this section.

Sec. 11. **Effect of repeal of Maine Revised Statutes, Title 5, section 200-D.** Reports and records that were created prior to the effective date of this Act that were confidential pursuant to the Maine Revised Statutes, Title 5, section 200-D at the time of their creation continue to be confidential after the effective date of this Act as provided in former Title 5, section 200-D. The confidentiality of intelligence and investigative information contained in reports and records prepared by or at the direction of the Department of the Attorney General after the effective date of this Act is governed by Title 16, section 614.

Sec. 12. **Effective date.** This Act takes effect July 1, 1995, except that that section of this Act that enacts the Maine Revised Statutes, Title 16, section 623 takes effect 90 days after adjournment of the Second Regular Session of the 116th Legislature.

Effective July 1, 1995, unless otherwise indicated.

CHAPTER 720

H.P. 1080 - L.D. 1446

An Act to Establish an Ambient Water Toxics Program

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §420-B is enacted to read:

§420-B. Surface water ambient toxic monitoring program

The discharge of pollutants from certain direct and indirect sources into the State's waters introduces toxic substances, as defined under section 420, into the environment. In order to determine the nature, scope and severity of toxic contamination in the surface waters and fisheries of the State, the commissioner shall conduct a scientifically valid monitoring program.

The program must be designed to comprehensively monitor the lakes, rivers and streams and marine and estuarine waters of the State on an ongoing basis. The program must incorporate testing for suspected toxic contamination in biological tissue and sediment, may include testing of the water column and must include biomonitoring and the monitoring of the health of individual organisms that may serve as indicators of toxic contamination. This program must collect data sufficient to support assessment of the risks to human and ecological health posed by the direct and indirect discharge of toxic contaminants.

1. **Development of monitoring plans and work programs.** The commissioner shall:

A. Prepare a plan every 5 years that outlines the monitoring objectives for the following 5 years, resources to be allocated to those objectives and a plan for conducting the monitoring, including methods, scheduling and quality assurance; and

B. Prepare a work program each year that defines the work to be conducted that year toward the objectives of the 5-year plan. This work program must identify specific sites, the sampling media and the contaminants that will be tested.

(1) The commissioner shall consider the following factors when selecting monitoring sites for the annual work program:

(a) The importance of the water body to fisheries, wildlife and humans;